

William P. Eskdale  
Claim Specialist II  
Environmental Claims Management  
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12.11.8



February 10, 1998

TLP-16A  
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David M. Wissert, Esq.  
Lowenstein, Sandler, Kohl, Fisher & Boylan  
65 Livingston Avenue  
Roseland, NJ 07068-1791

Re: Policyholder: Marmon Holdings/The Pritzker Interests  
Site: Bunker Hill/Coeur d'Alene Basin  
Claimants: Coeur d'Alene Tribe, United States  
Our File: 717 L 036233-X

Dear Mr. Wissert:

Thank you for your letter in response to mine dated December 11, 1997 and addressed to Mr. Lichtenstein of your offices.

Please note that we have now located policies ZCX 006162 and ZCX 008570 in addition to those found of which I apprised you in my letter of January 23, 1998.

Per your request I am enclosing copies of the following policies with this letter:

ZCX 006162	effective 2/1/82 to 10/1/82
ZCX 006384	effective 10/1/82 to 10/1/83
ZCX 006730	effective 10/1/83 to 10/1/84
ZCX 007380	effective 10/1/84 to 10/1/85
ZCX 008570	effective 10/1/85 to 11/1/86

You will note that these policies are not full policies, but instead are Excess Certificates of Insurance which, in part, follow form to underlying coverages. We continue to search for policy XCC 016848 and shortly I will be forwarding you a copy of policy XCP 156737 under separate cover.

In addition, please note that Endorsement 4 to policy ZCX 008570 sets forth an absolute pollution exclusion as follows:

This insurance also does not apply to any cost or expense arising out of any governmental demand or request that an insured test for assess, monitor, clean-up, remove, contain, treat, detoxify, or neutralize any such irritants, contaminants or pollutants.

This company shall not have the duty to defend any claim or suit

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seeking to impose such costs, expenses, liability for such damages,  
or any other relief.

Therefore, it would appear that if Century Indemnity is called up on to make any indemnity payment under this policy in connection with this claim, there would be no coverage and the claim would be denied.

I would also point out that both policies ZCX 006162 and ZCX 008570 are high level quota share excess policies with attachment points in excess of \$100 million and \$10 million, respectively.

Finally, with regard to your comments concerning my request for an outline of the entire coverage program, the way I see it this request is most germane to making a coverage determination since there are issues pertaining to exhaustion of underlying coverages, there may be applicable aggregates and there is a potential for questions pertaining to allocation of losses to particular years which will have an impact on the issue of exhaustion of underlying coverages. As you are no doubt aware, these policies would not respond, if at all, until allocated liability reaches the attachment point.

Century Indemnity hereby extends its reservations of rights and defenses as set forth in my letter to you dated December 11, 1997 to policies ZCX 006162 and ZCX 008570, in addition to those policies referenced in the same letter. In addition, where these policies are following form to underlying policies which are not in our possession there may be other policy provisions which apply to this potential claim. In this regard Century Indemnity also reserves all of its rights and defenses, including the right to amend its reservations at any time.

Sincerely yours,



William P. Eskdale

Enclosures:

Marmltr.002

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